

CHAPTER LVIII

WATER SUPPLY BY-LAWS

58-1

WATER SUPPLY BETTERMENT BY-LAW

58-1.1 TITLE.

This Article sets forth the purpose, authority, and applicability of the Topsfield Water Supply Betterment By-Law hereinafter called "By-Law".

58-1.2 PURPOSE.

The purpose of the By-Law is to establish a procedure:

- a. For creating water supply betterment zones in accordance with the applicable requirements of GLc 40 § § 420 through I.
- b. For a fair and acceptable method of apportioning part or all of the cost among those who benefit from any proposed water supply construction in said zones.
- c. For granting abatements as provided under the applicable sections of GLc 80.

58-1.3 AUTHORITY.

This By-Law has been adopted pursuant to the provisions of GLc 40 §§ 42G, 42H, and 42I.

58-1.4 APPLICABILITY.

The provisions of this By-Law shall apply and be binding upon all owners of land that benefit from water supply betterments constructed in water supply betterment zones established in accordance with the provisions of the By-Law, except that, if the Town accepts the provisions of GLc 80 § 13B, owners of land affected by the provisions of this By-Law may apply for an exemption thereof with the Board of Water Commissioners.

The provisions of the By-Law shall not apply to land owners located in these zones that do not receive benefit from water supply betterments constructed in these zones, nor shall they apply to construction authorized by the Board for the purpose of maintaining or improving the existing public water supply system.

58-1.5 DEFINITIONS.

The following terms used in the By-Law shall be defined as set forth herein. Terms not herein listed shall have definitions as contained in the General Laws or the Topsfield Zoning By-Law.

Abutter shall mean any person who owns land that fronts on a public way along which a water supply pipe has been installed under the provisions of the By-Law.

Benefit shall mean for the purposes of the By-Law, benefit shall accrue to all property which abuts upon the public way in which the water pipes are to be laid for the conveyance or distribution of water in any betterment zone established under the provisions of the provisions of this By-Law and may also include such property as does not abut upon said public way but whose owner requests that the property be supplied by remote means.

Frontage shall mean the length of the front line of a property abutting a public way.

Water Main shall mean a pipe laid in the public way for the purpose of conveying and distributing water to abutters on said public way.

58-1.6 THE BETTERMENT ZONE.

In the following, the procedure for establishing a water supply betterment zone is described.

a. Preparation of the Plan.

1. The Board of Water Commissioners, hereinafter called the "Board," upon its own motion or upon petition by ten (10) registered voters owning land fronting on public ways, may determine the advisability of constructing water mains in said public ways.
2. If the Board determines that the proposed betterment should proceed, the Board shall issue an "Order of Betterment" wherein it is declared that all costs and damages connected with said betterment shall be assessed upon and apportioned among those owners of land that receive benefit from the betterment.
3. The "Order of Betterment" shall also contain a record of the Board's vote to proceed with the proposed betterment. Thereafter the Board shall request the Town Engineer to prepare a plan for the construction of water mains in said public ways and a cost estimate of that construction. The plan and cost estimate shall be submitted to the Board within six (6) months from the date of the request or such further time as may be requested by the Town Engineer and granted by the Board.
4. The plan shall at a minimum contain the following information:
 - (a) That portion of each public way in which a water main is to be constructed.
 - (b) The location of each such water main within the right-of-way.
 - (c) All lots that front on the ways referred to in (a) together with the names of the owners of record of each of said lots as contained in the most recent tax records.
 - (d) The measured frontage of each lot referred to in (c) and reconciled with the Assessor's records.
 - (e) Any land abutting the public way in the betterment zone which is registered with the Land Court.

b. Public Hearing.

Upon receipt of the plan and cost estimate from the Town Engineer, the Board shall hold a public hearing which shall be advertised in a newspaper of local circulation at least five (5) days prior to the date of said hearing. Additionally, all land owners listed on the plan prepared under the provisions of paragraph a. shall be notified of said hearing by registered mail.

The Board shall determine by majority vote of all abutters present and voting, which of the four (4) methods of assessment set forth in GLc 40 § 42H shall be used to apportion the cost of the

proposed water betterment.

The record of vote shall be notarized and submitted to the Town Clerk within three (3) days after the conclusion of the public hearing.

Thereafter the Board may recommend to the Board of Selectmen that funds for the proposed water betterment be appropriated by the Town.

Where Town-owned land is subject to the special assessment for the proposed water betterment, the amount of said assessment shall be computed and approved by vote of the Board. The Board of Selectmen shall thereupon be notified of said assessment.

c. Recordation of Water Betterment Plan.

In the event that the Town approves funds for the construction of the water betterment, the Board shall within thirty (30) days of the date of the Town Meeting cause the "Order of Betterment", the plan and cost estimate to be recorded at the Registry of Deeds. In the event that registered land is included in the water betterment zone as indicated on the plan, the above mentioned documents shall also be filed with the Land Court.

58.1.7 CERTIFICATION OF ASSESSMENT.

Upon completion of construction, and in any event no later than six (6) months thereafter, the Board shall certify the actual expenditures incurred in the construction inclusive of debt service and legal fees, and determine the actual assessment to be apportioned on every property owner to receive benefits from the betterment in accordance with the assessing methods selected under the provisions of Art. II § 2 and all applicable provisions of GLc 40 § 421. The certificate of expenditures and the schedule of assessments shall be signed by the majority of the Board and submitted to the Board of Assessors. The Board of Assessors shall thereupon notify said persons of the amount assessed by the Water Commissioners. (Art. 38, 5/3/87 A IV § 1; Art. 52, 5/2/89)

58.1.8 METHOD OF PAYMENT.

All persons assessed under the provisions of this By-Law shall be given the option of paying the amount assessed over a period of twenty (20) years at an annual interest on the unpaid balance that may not be greater than two (2%) percent above the interest rate of the water betterment bond issue four (4) by the Town as provided under GLc 80 § 13.

58.1.9 ABATEMENTS.

The Board shall adopt rules and regulations for hearing and acting on appeals for abatements of assessments levied under the provisions of this By-Law. Such rules and regulations shall be consistent with the provisions of GLc 80 §§ 5 and 6. Said rules and regulations shall be available upon request at the Town Clerk's office.

58.1.10 REASSESSMENTS AND DIVISION.

The applicable provisions of GLc 80 to the reassessment of land or the subdivision thereof shall apply to all land assessed under the provisions of this By-Law.

58.1.11 AMENDMENT OF APPLICATION.

This amendment shall not apply to any existing betterment zone and said vote waives any requirements for amendment in the By-Law or any other law and hereby ratifies and confirms all existing and previous procedures concerning the adoption of the existing betterment zone. (Art. 38, 5/6/87; Art. 52, 5/2/89)

58-2

WATER USE RESTRICTION BY-LAW

58-2.1 AUTHORITY.

This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c.40, §21 *et seq* as amended from time to time and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This Bylaw also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

58-2.2 PURPOSE.

The purpose of this Bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency providing for enforcement of any duly imposed restrictions, requirement, provisions or conditions imposed by the Town or by the Department of Environmental Protection and to comply with Water Management Act requirements as administered by the Department of Environmental Protection. .

58-2.3 DEFINITIONS.

Conservation Measures shall mean restrictions on water use as defined in Section 58-2.5.

DEP shall mean the Massachusetts Department of Environmental Protection.

Essential Use shall include uses of water that have a health or safety impact, are required by regulation or are needed to meet the core functions of a business or other organization. All other uses shall be considered "nonessential".

Nonessential Use shall include uses of water that are not essential uses.

Off-Peak Hours shall be between 5 P. M. and 9 A.M. the following day.

Outdoor Watering shall include watering of lawns, shrubbery, bushes or other outdoor vegetation.

Outdoor Water Use shall include but is not limited to outdoor watering, filling of swimming pools and the washing of automobiles, boats or other vehicles.

Peak Hours shall be between 9 A.M. and 5 P.M. each day.

Person shall mean any Individual, Corporation Trust, Partnership or Association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c. 21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 58-2.4 of this Bylaw.

Water Customers shall mean all users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular location.

Water Users shall mean all persons, regardless of their geographic location, using water withdrawn from water sources located within the Town of Topsfield.

WMA shall mean the Water Management Act, M. G. L. c. 21G and any requirement or special condition imposed under the Town under said act.

58-2.4 DECLARATION OF A STATE OF WATER SUPPLY CONSERVATION.

The Town, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that one or more of the following conditions exist:

- a) A shortage of water exists. When a shortage exists, conservation measures will be imposed on water customers to ensure an adequate supply of water for all customers. A shortage of water may be caused by drought, loss of water storage, or other condition that impairs the Town's ability to meet water demand for its customers.
- b) Water use may exceed permitted limits. When the water system's use may exceed that which is permitted through the WMA, conservation measures will be imposed on water customers in order to comply with WMA limits.
- c) Ipswich River streamflow is low. When Ipswich River streamflow falls below limits specified through the WMA requiring the implementation of the conservation measure specified as Outdoor Water Use Peak Hours Ban, an Outdoor Water Use Peak Hours Ban will be imposed on all water users in order to comply with the WMA requirements.
- d) Ipswich River streamflow is very low. When Ipswich River streamflow falls below limits specified through the WMA requiring the implementation of the conservation measure specified as Outdoor Water Use Restriction, an Outdoor Water Use Restriction will be imposed on all water users in order to comply with the WMA requirements.

Public Notice of a State of Water Supply Conservation shall be given under Section 58-2.6 of this Bylaw before it can be enforced.

58-2.5 CONSERVATION MEASURES.

A declaration of a State of Water Supply Conservation shall specify one or more of the following conservation measures and shall specify whether the measure(s) are voluntary or mandatory and whether the measure(s) apply to water customers only or to all water users. The applicable restrictions, conditions, or requirements shall be included in the Public Notice required under Section 58-2.6 and shall not apply to essential uses.

- a) Outdoor Watering Odd / Even Day Restriction: Outdoor watering odd numbered addresses is restricted to odd numbered days; outdoor watering at even numbered addresses is restricted to even numbered days.
- b) Outdoor Water Use Peak Hours Ban: Outdoor water use is prohibited during peak hours.
- c) Outdoor Water Use Restriction: Outdoor water use is prohibited during peak hours and outdoor water use during off-peak hours is limited to hand held hoses, buckets or watering cans.
- d) Total Outdoor Water Use Ban: Outdoor water use is prohibited.

58-2.6 PUBLIC NOTIFICATION OF A STATE OF WATER SUPPLY CONSERVATION.

Notification of any provision, restriction, or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 58-2.5 shall

not be effective until such notification is provided. Notification of the State of Water Supply Conservation may also be simultaneously provided to the Massachusetts Department of Environmental Protection.

58-2.7 TERMINATION OF A STATE OF WATER SUPPLY CONSERVATION.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the conditions requiring the State of Water Supply Conservation no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 58-2.6.

All water usage restrictions issued by the Board pursuant to the Bylaw shall be superseded by water usage restrictions issued by the DEP under its declaration.

58-2.8 STATE OF WATER SUPPLY EMERGENCY.

Upon notification to the Public that a declaration of a State of Water Supply Emergency has been issued by the DEP, no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the DEP intended to bring about an end to the State of Emergency.

58-2.9 PENALTIES.

Any person violating any Section of this Bylaw shall be liable to the Town in the amount listed below:

- a) First Violation: Warning
- b) Second Violation: \$50.00
- c) Third Violation: \$100.00
- d) Fourth and subsequent Violations: \$300.00

The fines and charges shall inure to the Town. Fines shall be recovered by indictment or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. For purposes of non-criminal disposition, the enforcing person shall be any Police Officer of the Town or the Water Superintendent. Each day of violation within a declared State of Water Supply Conservation or State of Water Supply Emergency shall constitute a separate offense.

58-2.10 RIGHT OF ENTRY.

Entrance to any Building, Dwelling or Business Property shall be restricted as follows:

- a) Public Buildings may only be entered during normal business hours and in areas normally available to the general public, or upon the order of a Court of Law having jurisdiction.
- b) Private property may be entered only with the advice and consent of the owner, or upon the order of a Court of Law having jurisdiction.

58-2.11 SEVERABILITY.

If any portion or provision of this bylaw is deemed invalid, the remaining portions and provisions shall remain binding.

(Art. 43, 5/2/2000, Art. 28, 5/6/2008)

58-3

AUTOMATIC LAWN SPRINKLER BY-LAW

58-3.1 REGISTRATION.

All automatic lawn sprinkler systems connected to the municipal water system in the Town of Topsfield shall be registered with the Board of Water Commissioners. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners.

All sprinkler systems subject to this Bylaw shall be plumbed so that a shut off valve is located outside the building and situated so that it may be shut off if found to be in violation of this Bylaw and/or the Water Use Restriction Bylaw. For the purposes of this section only, Police Officers of the Town and/or Agents of the Board of Water Commissioners may enter upon any property to enforce this section.

58-3.2 BACKFLOW PREVENTION.

All automatic lawn sprinkler systems connected to the municipal water system in the Town of Topsfield shall be protected from a backflow condition by the installation of a backflow prevention device approved by the Board of Water Commissioners. Each backflow prevention device shall be registered with the Board of Water Commissioners. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners.

The Board of Water Commissioners shall maintain a list, available to the Public, of approved backflow prevention devices.

Each backflow prevention device shall be installed in accordance with Massachusetts General Law and the manufacturers instructions. Each device shall be tested upon its installation and annually thereafter, in accordance with Massachusetts General Law. A Massachusetts Certified Backflow Device Tester shall perform all testing. Copies of results of all testing shall be filed with the Water Department.

58-3.3 RAIN SENSOR DEVICE.

Installation of new automatic lawn sprinkler systems connected to the municipal water supply in the Town of Topsfield shall be equipped with a rain sensor device, approved by the Board of Water Commissioners, so that watering will be automatically prevented during rain storms.

Any service or repair to an existing automatic lawn sprinkler system shall include the installation of an approved rain sensor device, if the same is not already installed and in good working condition.

The Board of Water Commissioners shall maintain a list, available to the Public, of approved rain sensor devices.

58-3.4 ENFORCEMENT.

This Bylaw may be enforced using the Non-Criminal Disposition Bylaw. The enforcing person shall be any Police Officer of the Town as well as duly appointed Agents of the Board of Water Commissioners.

The non-criminal penalties for violations of the Bylaw shall be:

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| a) | First Violation | Warning |
| b) | Second Violation | \$50.00 |
| c) | Third and subsequent Violations | \$100.00 |

The fines and charges shall inure to the Town. Each day of violation shall constitute a separate violation.

58-3.5 SEVERABILITY.

The invalidity of any portion or provision of the Bylaw shall not invalidate any other portion or provision thereof.

(Art. 43, 5/2/2000)